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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,492	02/05/2001	Stephen B. Bove	257/103	8359

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EXAMINER

CHENCINSKI, SIEGFRIED E

ART UNIT	PAPER NUMBER
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3692

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/777,492	Applicant(s) BOVE ET AL.	
	Examiner Siegfried E. Chencinski	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 3, 5-9, 10, 12-16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahod et al. (US Patent 6,574,608 B1, hereafter Dahood) in view of Wilkins et al. (US Patent 6,868,389 B1, hereafter Wilkins).

Re. Claims 1, 9 & 16, Dahod discloses a computer-implemented method, system and a computer readable medium for generating anonymous leads from anonymously submitted database search criteria (BUYER ANONYMITY: Buyers are able to control whether and how personal information on the buyer is revealed to a given seller - Col. 2, ll. 27-29, 50-52, 55-56; Claims 34 & 63 – Col. 9, l. 18; Col. 11, l. 4), comprising:

- maintaining a prospect database identifying corresponding prospect information comprising:
 - (i) prospect-identifying information, and
 - (ii) anonymously submitted search criteria
 - (iii) search information corresponding to said search criteria.
(col. 4, ll. 24-28; col. 5, ll. 18-20)
- transmitting said prospect information to a business expert in a prospect presentation, wherein the prospect presentation is designed to enable generation of a proposal, and wherein the prospect information does not include the device-identifying information from a prospect (Col. 2, ll. 22-40. Providing information desired by a seller or accessed by a seller from a web site involves an electronic transmission of the information); and

Art Unit: 3692

- transmitting proposals to a device associated with the prospect for which the proposal is generated (Col. 2, ll. 38-42).

Dahod does not explicitly disclose a database which stores device identifying information, these are obviously residing in the middle man facilitator's server data base. An ordinary practitioner of the art at the time of Applicant's invention would have seen it as obvious that Dahod's teaching suggests retention by the middle man server of the device identifying information of both buyers and sellers since that information is presented to the server through the network as part of the connection. The middle man obviously can, and would have to collect that information in order to be able to communicate with either type of device, such as communicating prospect information to a business expert. The fact that Dahod suggests or even requires registration for buyers would have been an incidental piece of information to the ordinary practitioner of the art because of what he would have known about electronic networks such as the internet. The electronic device identifying information would in any case be available for equipping a seller to communicate to an anonymous buyer prospect. The facilitating middle man would have high motivation to retain this electronic information automatically for all buyers and sellers who contact his system. This has been done routinely over the internet for many years, with many web site operators automatically saving such information and planting cookies in the devices of those who access their sites. For example, Wilkins discloses the use of cookies for these purposes (Col. 2, ll. 26-43). So neither buyers nor sellers would or could obviously be truly unknown to the middle man facilitator since the facilitator's system had, could have or should have saved that automatically presented information in the respective database files of the participating parties. That information would still maintain the anonymity of the humans involved subject to their voluntarily disclosing that personal information, but all that is needed for operating the method and system is the device information. Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Dahod with those of Wilkins to design a method, system and a computer readable medium for generating anonymous leads from anonymously submitted database search criteria. The motivation for combining

Dahod's information with the information already known by the ordinary practitioner is to connect prospective buyers and sellers with each other more easily, efficiently and inexpensively (Dahod, Col. 1, ll. 59-63).

Re. Claim 3, Dahod discloses a method wherein the prospect database identifies prospect information for a plurality of prospects, all of which are active (Dahod discloses making a plurality of qualified buyer prospects available to sellers because a qualified buyer is a prospect in the world of selling since qualifying is a critical step in the selling process. One parameter of qualifying a sales prospect is that the prospect demonstrates an active desire to buy, which is not required to be a guarantee to ultimately buy. Col. 2, ll. 49-51).

Re. Claim 5, Dahod discloses a computer-implemented method wherein the prospect has no explicit gateway available (The non-gateway option is assumable through the "if" option; Col's 1-12).

Re. Claims 6 & 19, neither Dahod nor Wilkins explicitly disclose a computer-implemented method and computer readable medium wherein the transmitting proposal step comprises:

- (a) receiving a request for a formatted set of data, wherein the request includes a device identifier;
- (b) checking a status indicator to determine whether a proposal should be provided;
- (c) adding a proposal notification to the requested formatted set of data, if the checking step results in a determination that a proposal should be provided; and
- (d) transmitting the formatted set of data.

Please see the rejection rationale of claim 1. The examiner gives Official Notice that this illustrates that these steps were well known in the art of programming computers to achieve communications compatibility between parties so that the receiving party is able to parse a communication from another party. The proposal notification is optional, therefore is not required. Therefore, an ordinary practitioner of the art at the time of Applicant's invention would have been able to combine the art of Dahod and Wilkins

Art Unit: 3692

with Official Notice of well known programming techniques, motivated by the purpose of easily, efficiently and inexpensively connecting prospective buyers of goods and services with qualified sellers (Dahod, Col. 1, ll. 60-63).

Re. Claim 7, Dahod discloses a method wherein the proposal notification provides a link to a proposal-viewer, which enables anonymous communication between the device user and the business expert (Fig. 11; Col. 3, ll. 54-55).

Re. Claims 8 & 20, Dahod discloses a method and computer readable medium wherein the status indicator is included in the request, and wherein the formatted set of data comprises a web page (Col. 4, ll. 40-46), the prospect presentation comprises one or more web pages (Fig. 11), the proposal-viewer comprises one or more web pages (Fig's 11&12),

Neither Dahod nor Wilkins explicitly disclose that the device identifier comprises a cookie, the status indicator comprises a cookie and the prospect comprises an XML data. However, the examiner gives Official Notice that a cookie used as a device identifier and as a status indicator, and that XML data sets were well know in the art at the time of Applicant's invention. Accordingly, it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have added the well known Official Notice devices of cookies and XML data sets to the art of Dahod and Wilkins, motivated by the purpose of easily, efficiently and inexpensively connecting prospective buyers of goods and services with qualified sellers (Dahod, Col. 1, ll. 60-63).

Re. Claim 10, Dahod discloses a computer system comprising a business database (Fig. 7).

Re. Claims 12 & 18, neither Dahod nor Wilkins explicitly disclose a computer system and computer readable medium wherein the server engine is configured to not provide anonymous leads derived from particular prospects to particular business experts based upon gateway information for the particular prospects and gateway affiliation information for the particular business experts. However, please see the rejection logic presented for claims 1, 9 and 16 above. The ordinary practitioner at the time of Applicant's invention would have known that gateways are devices used to connect networks using different communications protocols so that information can be passed from one to

another. As such, gateway information for the prospects and the business experts who contact the facilitator's web site is automatically presented to the facilitator for use in accomplishing his purposes. It was thus unnecessary for Dahod to explicitly disclose this information. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the teaching of Dahod and Wilkins and the practitioner's own information in a system which maintains the anonymity of the user-prospect until the user authorizes the release of various aspects of his information as part of an anonymous system for easily, efficiently and inexpensively connecting prospective buyers of goods and services with qualified sellers, motivated by the desire to easily, efficiently and inexpensively connecting prospective buyers of goods and services with qualified sellers (Dahod, Col. 1, ll. 60-63).

Re. Claim 13, neither Dahod nor Wilkins explicitly disclose a computer system wherein the server engine is configured to furnish the proposals by selective use of session identifiers and device identifiers. However, the examiner takes Official Notice that the use of session and device identifiers was well known in the art at the time of Applicant's invention. Consequently, it would have been obvious for an ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Dahod and Wilkins with the selective use of session and device identifiers in furnishing proposals to user prospects as part of an anonymous system for easily, efficiently and inexpensively connecting prospective buyers of goods and services with qualified sellers, motivated by the desire to easily, efficiently and inexpensively connecting prospective buyers of goods and services with qualified sellers (Dahod, Col. 1, ll. 60-63).

Re. Claim 14, Dahod discloses a computer system wherein the server engine is further configured to enable anonymous communication between proposal generators and proposal receivers (Col. 2, ll. 27-29, 50-52, 55-56; Claims 34 & 63 – Col. 9, l. 18; Col. 11, l. 4).

Re. Claim 15, Dahod discloses a computer system wherein the business database contains data regarding real estate (Fig. 7), and a server engine which comprises a web server (Col. 4, ll. 6-46). Neither Dahod nor Wilkins explicitly disclose the session identifiers are session cookies, and the device identifiers are permanent cookies.

Art Unit: 3692

However, the examiner takes Official Notice that the use of cookies as session identifiers and session cookies, and permanent cookies as device identifiers were well known in the art at the time of Applicant's invention, as disclosed by Wilkins.

Accordingly it would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have Official Notice regarding the well known uses of cookies to the art of Dahod and Wilkins, motivated by the purpose of easily, efficiently and inexpensively connecting prospective buyers of goods and services with qualified sellers (Dahod, Col. 1, ll. 60-63).

2. Claims 2, 11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahod and Wilkins as applied to claims 1, 9 and 16 above, and further in view of Liu et al. (US Patent 6,574,608, hereafter Liu).

Re. Claims 2, 11 & 17, Dahod discloses a method, system and computer readable medium of search information which is disclosed to the seller on a schedule chosen by the buyer (Col. 2, ll. 53-59). Neither Dahod nor Wilkins explicitly disclose the disclosing to a seller information which also corresponds to post-search browsing activity data. However, Liu discloses the gathering a series of online browsing data from a user over time to identify the on-going interests and potential changes and expansion in interests as demonstrated by browsing activity (Col. 1, l. 58 – Col. 2, l. 4; Col. 2, ll. 14-33; col. 8, l. 56 - Col. 9, l. 20). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Dahod and Wilkins with that of Liu to enable an anonymous online user prospect to authorize the release of post-search browsing activity by the middle man entity to the seller business expert in order to capture valuable information regarding the changes in a user's interests over time (Liu, Col. 2, ll. 8-10).

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dahod and Wilkins as applied to claim 1 above, and further in view of Walker et al. (US Patent 5,794,207, hereafter Walker207).

Re. Claim 4, Dahod discloses a method comprising transmitting a notification to a business expert of a new prospect (Col. 2, ll. 22-25, 37-41).

Neither Dahod nor Wilkins explicitly disclose maintaining a tracking status of a proposal. However, Walker discloses a method of tracking the status of buyer proposals in an anonymous system. It would have been obvious for an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Davod and Wilkins with that of Walker207 for the purpose of tracking the status of a proposal between a seller expert and an anonymous prospect in order to utilize the services the services of a trusted third party (Walker207, Col. 7, ll. 13-15).

4. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahod in view of Walker (US Patent 2002/0169626 A1, hereafter Walker626).

Re. Claim 21, Dahod discloses a computer-implemented method for anonymously connecting sales agents with consumers of housing, comprising:

(a) providing a software application designed to communicate with a database containing information regarding housing, wherein the software application is accessible via a computer network and enables searching of the database, whereby search criteria is stored in association with search-requestor information (Fig. 7); and

(b) wherein the software application generates prospects from the search criteria for viewing, and the software application enables generation of search-requestor-directed proposals based upon the prospects without revealing contact information for the search-requestor (Col. 2, ll. 27-29, 50-52, 55-56; Claims 34 & 63 – Col. 9, l. 18; Col. 11, l. 4).

Dahod does not explicitly disclose not requiring user registration but does disclose embodiments which do require registration. However, Walker626 discloses the connecting of consumers with merchants and sales agents of various kinds without requiring the consumer to register (Fig. 1-15; Page 1-15. Registration of consumers is absent in Walker. Walker only requires sellers, agents and reference providers to register.). Further, as demonstrated in the rejection of claims 1, 9 and 16, the teaching or suggestion by Dahod of seller prospect registration is optional and moot, as

described in the rejection of claims 1, 9 and 16, since the facilitating server automatically is presented with the electronic device identity information of all devices which contact the facilitating server so that explicit registration is really optional and unnecessary for accomplishing Applicant's invention. Accordingly, it would have been obvious for an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Davod with that of Walker626 for the purpose of anonymously connecting sales agents with consumers of housing in order to provide a prospective customer with a good sales agent (Walker626, Page 1, [0003], ll. 1-2).

Re. Claim 22, Dahod discloses a computer-implemented method wherein the software application further enables anonymous communication between a proposal-creator and a proposal-receiver (Col. 2, ll. 49-51).

Re. Claim 23, Dahod discloses a computer-implemented method wherein the information regarding housing includes information regarding real estate for sale, information regarding common interest developments such as condominiums and coops, information regarding apartments for rent and a category for miscellaneous real estate available. Dahod does not explicitly disclose the provision of information regarding factory built homes. However, the examiner takes Official Notice that the marketing of factory built homes is well known. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Dahod with Official Notice regarding the well known information that factory built homes for sale are included in real estate housing listings for sale since factory built homes comprise a small subsegment of homes for sale as part of an anonymous system, motivated by the desire for easily, efficiently and inexpensively connecting prospective buyers of goods and services with qualified sellers (Dahod, Col. 1, ll. 60-63).

5. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahod in view of Walker626 as applied to claim 21, and further in view of Flight et al. (US Patent 6,662,199 B1, hereafter Flight).

Re. Claims 24 & 25, neither Dahod nor Walker626 explicitly disclose

Art Unit: 3692

- **Re. Claim 24**, a computer-implemented method wherein the software application comprises:
 - (a) a presentation layer;
 - (b) a middle layer, having business rule implementation objects, communications objects and database messaging objects; and
 - (c) a database.
- **Re. Claim 25**, Dahod discloses computer-implemented method wherein the database messaging objects include objects for translating XML data into a database-specific format.

However Flight discloses

- **Re. Claim 24**, a computer-implemented method wherein the software application comprises:
 - (a) a presentation layer;
 - (b) a middle layer, having business rule implementation objects, communications objects and database messaging objects; and
 - (c) a database.

(Abstract, Fig. 5, Col. 3, l. 51 – Col. 4, l. 63)

- **Re. Claim 25**, a computer-implemented method wherein the database messaging objects include objects for translating XML data into a database-specific format (Col. 10, l. 52; Col. 15, l. 15; Col. 18, claim 24).

It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of Dahod and Walker 626 with the art of Flight to provide software which uses a simplified technique to more easily, efficiently and inexpensively connect qualified housing sales agents with customers (Flight, Col. 3, ll. ll. 1-48).

Response to Arguments

6. Applicant's arguments filed October 11, 2005 with respect to independent claims 1, 9 and 16 have been considered but are moot in view of the new ground(s) of rejection.

ARGUMENT: Regarding not having properly established a *prima facie* obviousness by not having a basis in the prior art for making a combination and teaching away regarding Dahood requiring registration by users (page 4, ll. 4 – p. 7, l. 2):

(1) The Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 509 F.2d 566, 184 USPQ 607, (CCPA 1975).

(2) As discussed in **MPEP § 2143.01**, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine reference teachings (underlining added).

The Federal Circuit has produced a number of decisions overturning obviousness rejections due to a lack of suggestion in the prior art of the desirability of combining references, as discussed in the aforementioned section.

(3) There is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art (underlining added). *In re McLaughlin* 443 F.2d 1392, 1395, 170 USPQ 209, 212 (CCPA 1971).

(4) References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures (underlining added). *In re Bozek*, 163 USPQ 545 9ccpa) 1969.

(5) The federal Circuit Court's ruling in March 2006 states the following:

"A suggestion, teaching, or motivation to combine the relevant prior art teachings does not have to be found explicitly in the prior art, as the teaching, motivation, or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references. . . . The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem

to be solved as a whole would have suggested to those of ordinary skill in the art. In re Kotzab, 217 F.3d 1365, 1370 (Fed. Cir. 2000). However, rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. See Lee, 277 F.3d at 1343-46; Rouffett, 149 F.3d at 1355-59. This requirement is as much rooted in the Administrative Procedure Act, which ensures due process and non-arbitrary decisionmaking, as it is in § 103. See id. at 1344-45." In re Kahn, Slip Op. 04-1616, page 9 (Fed. Cir. Mar. 22, 2006).

In this instance, the examiner has met the standards reconfirmed by *In re Kahn* stated above, including the argument that Dahod teaches away from the anonymous lead generation system claimed in the present invention. The examiner has pointed to a combination of explicit, implicit, suggested and obvious reasons and to the knowledge of the ordinary practitioner in consideration of the problems to be solved, supported by articulated reasoning with some rational underpinning to support the legal conclusion of obviousness in making the rejections of independent claims 1, 21, 24, 27 and 28 under the 35 USC obviousness statute. Therefore, as is expanded upon in the appropriate claim rejections above, it would have been obvious at the time of Applicant's invention to have combined selectively combined the disclosures of Dahod with those of Liu, Walker and Flight and Official Notice with the ordinary practitioner's own knowledge, motivated by the desire to connect prospective buyers and sellers with each other more easily, efficiently and inexpensively (Dahod, Col. 1, ll. 59-63).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Siegfried Chencinski whose telephone number is 571-272-6792. The Examiner can normally be reached Monday through Friday, 9am to 6pm. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Richard E. Chilcot, can be reached on (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Art Unit: 3692

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

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or faxed to:

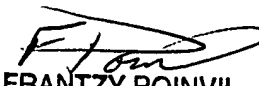
(571)273-8300 [Official communications; including After Final communications labeled "Box AF"]

(571) 273-6792 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the address found on the above USPTO web site in Alexandria, VA.

SEC

October 30, 2006


FRANTZY POINVIL
PRIMARY EXAMINER
Au 3692